## SENATE BILL No. 423

#### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10-5.5-22; IC 5-10.2-4-11; IC 5-14-3-4; IC 10-12-2-10.5; IC 33-38-6-28; IC 33-39-7-26; IC 36-8.

Synopsis: Forfeiture of public pensions for misconduct. Provides for the forfeiture of all or part of a pension benefit from the state excise police and conservation enforcement officers' retirement fund, the public employees' retirement fund, the teachers' retirement fund, the state police benefit system, the judges' retirement system, the prosecuting attorneys retirement fund, the 1925 police pension fund, the 1937 firefighters' pension fund, the 1953 police pension fund, the 1977 police officers' and firefighters' pension and disability fund, and the sheriff's department's pension trust fund for misconduct by a public officer or employee. Provides that: (1) meetings to receive information about or to discuss, before a determination, the forfeiture of a pension benefit may be held in an executive session; and (2) the records concerning the forfeiture are exempt from disclosure at the discretion of the pension administrator, except for the final determination, which is available for inspection and copying.

Effective: July 1, 2005.

# Clark

January 13, 2005, read first time and referred to Committee on Pensions and Labor.



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

# C

### SENATE BILL No. 423

O

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

p

Be it enacted by the General Assembly of the State of Indiana:

У

- SECTION 1. IC 5-10-5.5-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) As used in this section, "PERF board" refers to the board of trustees of the public employees' retirement fund.
- (b) Notwithstanding any other provision of Indiana law, a participant in the state excise police and conservation enforcement officers' retirement fund is required to render honorable service as a condition for receiving an annual retirement allowance under this chapter.
- (c) If a participant commits misconduct while in active service on the force, the PERF board shall conduct a hearing to determine whether:
  - (1) the misconduct constitutes a breach of the condition that the participant's service be honorable; and
  - (2) forfeiture of all or part of the participant's annual retirement allowance is appropriate.
  - (d) The PERF board shall consider and balance the following



1

2

3

4

5

6

7

8

9

10

11 12

13

14

15

16

1	factors against the goals of the public pension laws in making a
2	determination under subsection (c):
3	(1) The participant's length of service.
4	(2) The reason for the participant's retirement.
5	(3) The extent to which the participant's benefit has vested.
6	(4) The participant's duties.
7	(5) The participant's history of public service, including the
8	public service covered by the state excise police and
9	conservation enforcement officers' retirement fund and other
.0	public employment or service completed by the participant.
1	(6) The nature of the misconduct, including the following:
2	(A) The seriousness of the misconduct.
.3	(B) Whether the misconduct was a single offense or
.4	multiple offenses.
.5	(C) Whether the misconduct was an isolated, one (1) time
.6	occurrence or a continuing event.
.7	(7) The relationship between the misconduct and the
.8	participant's public service.
9	(8) The degree of the participant's moral turpitude, guilt, or
20	culpability, including the participant's motives for and
21	personal gain from the misconduct.
22	(9) The availability and adequacy of other punishment or
23	sanctions for the misconduct, including criminal prosecution.
24	(10) Other personal circumstances of the participant that bear
25	on the justness of forfeiture.
26	(e) The PERF board shall issue a determination not later than
27	thirty (30) days after the hearing under subsection (c) and provide
28	a copy to the participant.
29	(f) If the PERF board determines under subsection (c) that the
50	forfeiture of all or part of the participant's annual retirement
51	allowance is appropriate, the PERF board shall also determine
32	whether forfeiture of all or part of the benefits to which a surviving
33 34	spouse, parent, or dependent child of the participant would
5 5	otherwise be entitled under this chapter is appropriate.
5 6	(g) If the PERF board determines under subsection (c) that a partial forfeiture of the participant's annual retirement allowance
57	is warranted, the PERF board shall calculate the participant's
88	annual retirement allowance as if the participant had retired or
10 19	withdrawn from the state excise police and conservation
10	enforcement officers' retirement fund on the date that the
1	participant's misconduct first occurred.
12	(h) If the calculation of the participant's annual retirement
_	(1) in the calculation of the participant's annual retirement



1	allowance under subsection (g) would result in an excessive annual
2	retirement allowance or an excessive forfeiture, given the nature
3	and extent of the participant's misconduct, the PERF board may
4	select a date that is reasonably calculated to impose a forfeiture
5	that reflects both the nature and extent of:
6	(1) the participant's misconduct; and
7	(2) the participant's honorable service.
8	(i) If a prosecuting attorney undertakes the prosecution of or
9	obtains a criminal conviction against an individual whom the
10	prosecuting attorney knows, or has reason to believe, is a
11	participant in the state excise police and conservation enforcement
12	officers' retirement fund, the prosecuting attorney shall:
13	(1) notify the PERF board in writing of the prosecution or
14	conviction; and
15	(2) provide any information requested by the PERF board to
16	enable the PERF board to make the determination required
17	by this section.
18	(j) If the state terminates a public employee whom the state
19	knows, or has reason to believe, is a participant in the state excise
20	police and conservation enforcement officers' retirement fund, the
21	state shall:
22	(1) notify the PERF board in writing of the state's action; and
23	(2) provide any information requested by the PERF board to
24	enable the PERF board to make the determination required
25	by this section.
26	(k) A meeting or hearing held to receive information about or
27	to discuss, before a determination, whether:
28	(1) a participant's misconduct constitutes a breach of the
29	condition that the participant's service be honorable; and
30	(2) forfeiture of all or part of the participant's annual
31	retirement allowance is appropriate;
32	under this section may be held as an executive session under
33	IC 5-14-1.5-6.1(b)(1).
34	(I) Records containing information about whether:
35	(1) a participant's misconduct constitutes a breach of the
36	condition that the participant's service be honorable; and
37	(2) forfeiture of all or part of the participant's annual
38	retirement allowance is appropriate;
39	under this section are exempt from disclosure under
40	IC 5-14-3-4(b)(21). The PERF board's final determination under
41	this section is available for inspection and copying under IC 5-14-3.
42	SECTION 2. IC 5-10.2-4-11 IS ADDED TO THE INDIANA CODE



1	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2	1, 2005]: Sec. 11. (a) This section does not apply to a member's
3	annuity savings account (as described in IC 5-10.2-2-3).
4	(b) Notwithstanding any other provision of Indiana law, a
5	member of the fund is required to render honorable service as a
6	condition for receiving a retirement benefit under this article,
7	IC 5-10.3, and IC 21-6.1.
8	(c) If a member commits misconduct while an active member of
9	the fund, the board shall conduct a hearing to determine whether:
10	(1) the misconduct constitutes a breach of the condition that
11	the member's service be honorable; and
12	(2) forfeiture of all or part of the member's retirement benefit
13	is appropriate.
14	(d) The board shall consider and balance the following factors
15	against the goals of the public pension laws in making a
16	determination under subsection (c):
17	(1) The member's length of service.
18	(2) The reason for the member's retirement.
19	(3) The extent to which the member's benefit has vested.
20	(4) The member's duties.
21	(5) The member's history of public service, including the
22	public service covered by the fund and other public
23	employment or service completed by the member.
24	(6) The nature of the misconduct, including the following:
25	(A) The seriousness of the misconduct.
26	(B) Whether the misconduct was a single offense or
27	multiple offenses.
28	(C) Whether the misconduct was an isolated, one (1) time
29	occurrence or a continuing event.
30	(7) The relationship between the misconduct and the
31	member's public service.
32	(8) The degree of the member's moral turpitude, guilt, or
33	culpability, including the member's motives for and personal
34	gain from the misconduct.
35	(9) The availability and adequacy of other punishment or
36	sanctions for the misconduct, including criminal prosecution.
37	(10) Other personal circumstances of the member that bear
38	on the justness of forfeiture.
39	(e) The board shall issue a determination not later than thirty
40	(30) days after the hearing under subsection (c) and provide a copy
41	to the member.
42	(f) If the board determines under subsection (c) that the



1	forfeiture of all or part of the member's retirement benefit is
2	appropriate, the board shall also determine whether forfeiture of
3	all or part of the benefits to which a surviving spouse, dependent,
4	or beneficiary of the member would otherwise be entitled under
5	this article, IC 5-10.3, or IC 21-6.1 is appropriate.
6	(g) If the board determines under subsection (c) that a partial
7	forfeiture of the member's retirement benefit is warranted, the
8	board shall calculate the member's retirement benefit as if the
9	member had retired or withdrawn from the fund on the date that
10	the member's misconduct first occurred.
11	(h) If the calculation of the member's retirement benefit under
12	subsection (g) would result in an excessive retirement benefit or an
13	excessive forfeiture, given the nature and extent of the member's
14	misconduct, the board may select a date that is reasonably
15	calculated to impose a forfeiture that reflects both the nature and
16	extent of:
17	(1) the member's misconduct; and
18	(2) the member's honorable service.
19	(i) If a prosecuting attorney undertakes the prosecution of or
20	obtains a criminal conviction against an individual whom the
21	prosecuting attorney knows, or has reason to believe, is a
22	participant in the fund, the prosecuting attorney shall:
23	(1) notify the board in writing of the prosecution or
24	conviction; and
25	(2) provide any information requested by the board to enable
26	the board to make the determination required by this section.
27	(j) If the senate removes a public officer from office or an
28	employer terminates a public employee whom the senate or the
29	employer knows or has reason to believe is a member of the fund,
30	the secretary of the senate or the employer shall:
31	(1) notify the board in writing of the action of the senate or
32	the employer; and
33	(2) provide any information requested by the board to enable
34	the board to make the determination required by this section.
35	(k) A meeting or hearing held to receive information about or
36	to discuss, before a determination, whether:
37	(1) a member's misconduct constitutes a breach of the
38	condition that the member's service be honorable; and
39	(2) forfeiture of all or part of the members' retirement benefit
40	is appropriate;
41	under this section may be held as an executive session under
42	IC 5-14-1.5-6.1(b)(1).



1	(1) Records containing information about whether:
2	(1) a member's misconduct constitutes a breach of the
3	condition that the member's service be honorable; and
4	(2) forfeiture of all or part of the member's retirement benefit
5	is appropriate;
6	under this section are exempt from disclosure under
7	IC 5-14-3-4(b)(21). The board's final determination under this
8	section is available for inspection and copying under IC 5-14-3.
9	SECTION 3. IC 5-14-3-4, AS AMENDED BY P.L.173-2003,
0	SECTION 5, AND AS AMENDED BY P.L.200-2003, SECTION 3, IS
1	CORRECTED AND AMENDED TO READ AS FOLLOWS
2	[EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The following public records
3	are excepted from section 3 of this chapter and may not be disclosed by
4	a public agency, unless access to the records is specifically required by
5	a state or federal statute or is ordered by a court under the rules of
6	discovery:
7	(1) Those declared confidential by state statute.
8	(2) Those declared confidential by rule adopted by a public
9	agency under specific authority to classify public records as
0	confidential granted to the public agency by statute.
1	(3) Those required to be kept confidential by federal law.
2	(4) Records containing trade secrets.
3	(5) Confidential financial information obtained, upon request,
4	from a person. However, this does not include information that is
5	filed with or received by a public agency pursuant to state statute.
6	(6) Information concerning research, including actual research
7	documents, conducted under the auspices of an institution of
8	higher education, including information:
9	(A) concerning any negotiations made with respect to the
0	research; and
1	(B) received from another party involved in the research.
2	(7) Grade transcripts and license examination scores obtained as
3	part of a licensure process.
4	(8) Those declared confidential by or under rules adopted by the
5	supreme court of Indiana.
6	(9) Patient medical records and charts created by a provider,
7	unless the patient gives written consent under IC 16-39.
8	(10) Application information declared confidential by the
9	twenty-first century research and technology fund board under
0	IC 4-4-5.1.
1	(11) A photograph, a video recording, or an audio recording of an
2	autonsy except as provided in IC 36-2-14-10



1	(b) Except as otherwise provided by subsection (a), the following	
2	public records shall be excepted from section 3 of this chapter at the	
3	discretion of a public agency:  (1) Investigatory records of law enforcement agencies. However,	
5	certain law enforcement records must be made available for	
6	inspection and copying as provided in section 5 of this chapter.	
7	(2) The work product of an attorney representing, pursuant to	
8	state employment or an appointment by a public agency:	
9	(A) a public agency;	
0	(B) the state; or	
1	(C) an individual.	
2	(3) Test questions, scoring keys, and other examination data used	
3	in administering a licensing examination, examination for	
4	employment, or academic examination before the examination is	
5	given or if it is to be given again.	
6	(4) Scores of tests if the person is identified by name and has not	
7	consented to the release of the person's scores.	
8	(5) The following:	
9	(A) Records relating to negotiations between the department	
20	of commerce, the Indiana development finance authority, the	
21	Indiana film commission, the Indiana business modernization	
22	and technology corporation, or economic development	
23	commissions with industrial, research, or commercial	
24	prospects, if the records are created while negotiations are in	_
25	progress.	
26	(B) Notwithstanding clause (A), the terms of the final offer of	_
27	public financial resources communicated by the department of	
28	commerce, the Indiana development finance authority, the	
29	Indiana film commission, the Indiana business modernization	
30	and technology corporation, or economic development	
31	commissions to an industrial, a research, or a commercial	
32	prospect shall be available for inspection and copying under	
33	section 3 of this chapter after negotiations with that prospect	
34	have terminated.	
55	(C) When disclosing a final offer under clause (B), the	
36 27	department of commerce shall certify that the information	
57	being disclosed accurately and completely represents the terms of the final offer.	
8 19		
10	(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private	
1	contractor under a contract with a public agency, that are	
12	expressions of oninion or are of a speculative nature, and that are	



1	communicated for the purpose of decision making.
2	(7) Diaries, journals, or other personal notes serving as the
3	functional equivalent of a diary or journal.
4	(8) Personnel files of public employees and files of applicants for
5	public employment, except for:
6	(A) the name, compensation, job title, business address,
7	business telephone number, job description, education and
8	training background, previous work experience, or dates of
9	first and last employment of present or former officers or
10	employees of the agency;
11	(B) information relating to the status of any formal charges
12	against the employee; and
13	(C) information concerning the factual basis for a disciplinary
14	actions action in which final action has been taken and that
15	resulted in the employee being disciplined suspended,
16	demoted, or discharged.
17	However, all personnel file information shall be made available
18	to the affected employee or the employee's representative. This
19	subdivision does not apply to disclosure of personnel information
20	generally on all employees or for groups of employees without the
21	request being particularized by employee name.
22	(9) Minutes or records of hospital medical staff meetings.
23	(10) Administrative or technical information that would
24	jeopardize a record keeping or security system.
25	(11) Computer programs, computer codes, computer filing
26	systems, and other software that are owned by the public agency
27	or entrusted to it and portions of electronic maps entrusted to a
28	public agency by a utility.
29	(12) Records specifically prepared for discussion or developed
30	during discussion in an executive session under IC 5-14-1.5-6.1.
31	However, this subdivision does not apply to that information
32	required to be available for inspection and copying under
33	subdivision (8).
34	(13) The work product of the legislative services agency under
35	personnel rules approved by the legislative council.
36	(14) The work product of individual members and the partisan
37	staffs of the general assembly.
38	(15) The identity of a donor of a gift made to a public agency if:
39	(A) the donor requires nondisclosure of the donor's identity as
40	a condition of making the gift; or
41	(B) after the gift is made, the donor or a member of the donor's
42	family requests nondisclosure.



1	(16) Library or archival records:
2	(A) which can be used to identify any library patron; or
3	(B) deposited with or acquired by a library upon a condition
4	that the records be disclosed only:
5	(i) to qualified researchers;
6	(ii) after the passing of a period of years that is specified in
7	the documents under which the deposit or acquisition is
8	made; or
9	(iii) after the death of persons specified at the time of the
10	acquisition or deposit.
11	However, nothing in this subdivision shall limit or affect contracts
12	entered into by the Indiana state library pursuant to IC 4-1-6-8.
13	(17) The identity of any person who contacts the bureau of motor
14	vehicles concerning the ability of a driver to operate a motor
15	vehicle safely and the medical records and evaluations made by
16	the bureau of motor vehicles staff or members of the driver
17	licensing medical advisory board. committee. However, upon
18	written request to the commissioner of the bureau of motor
19	vehicles, the driver must be given copies of the driver's medical
20	records and evaluations that concern the driver.
21	(18) School safety and security measures, plans, and systems,
22	including emergency preparedness plans developed under 511
23	IAC 6.1-2-2.5.
24	(19) A record or a part of a record, the public disclosure of which
25	would have a reasonable likelihood of threatening public safety
26	by exposing a vulnerability to terrorist attack. A record described
27	under this subdivision includes:
28	(A) a record assembled, prepared, or maintained to prevent,
29	mitigate, or respond to an act of terrorism under IC 35-47-12-1
30	or an act of agricultural terrorism under IC 35-47-12-2;
31	(B) vulnerability assessments;
32	(C) risk planning documents;
33	(D) needs assessments;
34	(E) threat assessments;
35	(F) domestic preparedness strategies;
36	(G) the location of community drinking water wells and
37	surface water intakes;
38	(H) the emergency contact information of emergency
39	responders and volunteers;
40	(I) infrastructure records that disclose the configuration of
41	critical systems such as communication, electrical, ventilation,
42	water, and wastewater systems; and



1	(J) detailed drawings or specifications of structural elements,
2	floor plans, and operating, utility, or security systems, whether
3	in paper or electronic form, of any building or facility located
4	on an airport (as defined in IC 8-21-1-1) that is owned,
5	occupied, leased, or maintained by a public agency. A record
6	described in this clause may not be released for public
7	inspection by any public agency without the prior approval of
8	the public agency that owns, occupies, leases, or maintains the
9	airport. The submitting public agency that owns, occupies,
10	leases, or maintains the airport:
11	(i) is responsible for determining whether the public
12	disclosure of a record or a part of a record has a reasonable
13	likelihood of threatening public safety by exposing a
14	vulnerability to terrorist attack; and
15	(ii) must identify a record described under item (i) and
16	clearly mark the record as "confidential and not subject to
17	public disclosure under IC 5-14-3-4(19)(I) IC 5-14-3-4
18	without approval of (insert name of submitting public
19	agency)".
20	This subdivision does not apply to a record or portion of a record
21	pertaining to a location or structure owned or protected by a
22	public agency in the event that an act of terrorism under
23	IC 35-47-12-1 or an act of agricultural terrorism under
24	IC 35-47-12-2 has occurred at that location or structure, unless
25	release of the record or portion of the record would have a
26	reasonable likelihood of threatening public safety by exposing a
27	vulnerability of other locations or structures to terrorist attack.
28	(20) The following personal information concerning a customer
29	of a municipally owned utility (as defined in IC 8-1-2-1):
30	(A) Telephone number.
31	(B) Address.
32	(C) Social Security number.
33	(21) Records containing information about whether:
34	(A) the misconduct of a public pension fund member or
35	participant constitutes a breach of the condition that the
36	fund member's or participant's service be honorable; and
37	(B) forfeiture of all or part of the fund member's or
38	participant's retirement allowance, retirement benefit, or
39	pension amount is appropriate;
40	except that a final determination by the administrator of the
41	public pension fund is available for inspection and copying.
42	(c) Nothing contained in subsection (b) shall limit or affect the right



1	of a person to inspect and copy a public record required or directed to	
2	be made by any statute or by any rule of a public agency.	
3	(d) Notwithstanding any other law, a public record that is classified	
4	as confidential, other than a record concerning an adoption, shall be	
5	made available for inspection and copying seventy-five (75) years after	
6	the creation of that record.	
7	(e) Notwithstanding subsection (d) and section 7 of this chapter:	
8	(1) public records subject to IC 5-15 may be destroyed only in	
9	accordance with record retention schedules under IC 5-15; or	
10	(2) public records not subject to IC 5-15 may be destroyed in the	
11	ordinary course of business.	
12	SECTION 4. IC 10-12-2-10.5 IS ADDED TO THE INDIANA	
13	CODE AS A NEW SECTION TO READ AS FOLLOWS	
14	[EFFECTIVE JULY 1, 2005]: Sec. 10.5 (a) Notwithstanding any	
15	other provision of Indiana law, an employee beneficiary is required	
16	to render honorable service as a condition for receiving a monthly	
17	pension amount under this article.	
18	(b) If an employee beneficiary commits misconduct while in the	
19	active service of the department, the department shall conduct a	
20	hearing to determine whether:	
21	(1) the misconduct constitutes a breach of the condition that	<b>=</b> 4
22	the employee beneficiary's service be honorable; and	
23	(2) forfeiture of all or part of the employee beneficiary's	
24	monthly pension amount is appropriate.	
25	(c) The department shall consider and balance the following	
26	factors against the goals of the public pension laws in making a	
27	determination under subsection (b):	
28	(1) The employee beneficiary's length of service.	T Y
29	(2) The reason for the employee beneficiary's retirement.	
30	(3) The extent to which the employee beneficiary's benefit has	
31	vested.	
32	(4) The employee beneficiary's duties.	
33	(5) The employee beneficiary's history of public service,	
34	including the public service covered by the pension trust and	
35	other public employment or service completed by the	
36	employee beneficiary.	
37	(6) The nature of the misconduct, including the following:	
38	(A) The seriousness of the misconduct.	
39	(B) Whether the misconduct was a single offense or	
40	multiple offenses.	
41	(C) Whether the misconduct was an isolated, one (1) time	
12	occurrence or a continuing event.	



1	(7) The relationship between the misconduct and the employee	
2	beneficiary's public service.	
3	(8) The degree of the employee beneficiary's moral turpitude,	
4	guilt, or culpability, including the employee beneficiary's	
5	motives for and personal gain from the misconduct.	
6	(9) The availability and adequacy of other punishment or	
7	sanctions for the misconduct, including criminal prosecution.	
8	(10) Other personal circumstances of the employee	
9	beneficiary that bear on the justness of forfeiture.	
10	(d) The department shall issue a determination not later than	
11	thirty (30) days after the hearing under subsection (b) and provide	
12	a copy to the employee beneficiary.	
13	(e) If the department determines under subsection (b) that the	
14	forfeiture of all or part of the employee beneficiary's monthly	
15	pension amount is appropriate, the department shall also	
16	determine whether forfeiture of all or part of the benefits to which	
17	a surviving spouse or dependent child of the employee beneficiary	
18	would otherwise be entitled under this article is appropriate.	
19	(f) If the department determines under subsection (b) that a	
20	partial forfeiture of the employee beneficiary's monthly pension	
21	amount is warranted, the department shall direct the trustee to	
22	recalculate the employee beneficiary's monthly pension amount as	
23	if the employee beneficiary had retired or resigned from the	
24	department on the date that the employee beneficiary's misconduct	
25	first occurred.	
26	(g) If the calculation of the employee beneficiary's monthly	
27	pension amount under subsection (f) would result in an excessive	
28	retirement benefit or an excessive forfeiture, given the nature and	V
29	extent of the employee beneficiary's misconduct, the department	
30	may select a date that is reasonably calculated to impose a	
31	forfeiture that reflects both the nature and extent of:	
32	(1) the employee beneficiary's misconduct; and	
33	(2) the employee beneficiary's honorable service.	
34	(h) If a prosecuting attorney undertakes the prosecution of or	
35	obtains a criminal conviction against an individual whom the	
36	prosecuting attorney knows or has reason to believe is an employee	
37	beneficiary of the pension trust, the prosecuting attorney shall:	
38	(1) notify the department in writing of the prosecution or	
39	conviction; and	
40	(2) provide any information requested by the department to	
41	enable the department to make the determination required by	
12	this section.	



1	(i) A meeting or hearing held to receive information about or to	
2	discuss, before a determination, whether:	
3	(1) an employee beneficiary's misconduct constitutes a breach	
4	of the condition that the employee beneficiary's service be	
5	honorable; and	
6	(2) forfeiture of all or a part of the employee beneficiary's	
7	monthly pension amount is appropriate;	
8	under this section may be held as an executive session under	
9	IC 5-14-1.5-6.1(b)(1).	
10	(j) Records containing information about whether:	
11	(1) an employee beneficiary's misconduct constitutes a breach	
12	of the condition that the employee beneficiary's service be	
13	honorable; and	
14	(2) forfeiture of all or part of the employee beneficiary's	
15	monthly pension amount is appropriate;	
16	under this section are exempt from disclosure under	
17	IC 5-14-3-4(b)(21). The department's final determination under	
18	this section is available for inspection and copying under IC 5-14-3.	
19	SECTION 5. IC 33-38-6-28 IS ADDED TO THE INDIANA CODE	
20	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY	
21	1, 2005]: Sec. 28. (a) Notwithstanding any other provision of	
22	Indiana law, a participant in the judges' retirement system is	
23	required to render honorable service as a condition for receiving	
24	a retirement benefit under this article.	-
25	(b) If a participant commits misconduct while serving as a state	
26	or county judge, the board shall conduct a hearing to determine	
27	whether:	
28	(1) the misconduct constitutes a breach of the condition that	V
29	the participant's service be honorable; and	J
30	(2) forfeiture of all or part of the participant's retirement	
31	benefit is appropriate.	
32	(c) The board shall consider and balance the following factors	
33	against the goals of the public pension laws in making a	
34	determination under subsection (b):	
35	(1) The participant's length of service.	
36	(2) The reason for the participant's retirement.	
37	(3) The extent to which the participant's benefit has vested.	
38	(4) The participant's duties.	
39	(5) The participant's history of public service, including the	
40	public service covered by the judges' retirement system and	
41	other public employment or service completed by the	
12	participant.	



1	(6) The nature of the misconduct, including the following:
2	(A) The seriousness of the misconduct.
3	(B) Whether the misconduct was a single offense or
4	multiple offenses.
5	(C) Whether the misconduct was an isolated, one (1) time
6	occurrence or a continuing event.
7	(7) The relationship between the misconduct and the
8	participant's public service.
9	(8) The degree of the participant's moral turpitude, guilt, or
10	culpability, including the participant's motives for and
11	personal gain from the misconduct.
12	(9) The availability and adequacy of other punishment or
13	sanctions for the misconduct, including criminal prosecution.
14	(10) Other personal circumstances of the participant that bear
15	on the justness of forfeiture.
16	(d) The board shall issue a determination not later than thirty
17	(30) days after the hearing under subsection (b) and provide a copy
18	to the participant.
19	(e) If the board determines under subsection (b) that the
20	forfeiture of all or part of the participant's retirement benefit is
21	appropriate, the board shall also determine whether forfeiture of
22	all or part of the benefits to which a surviving spouse or child of
23	the participant would otherwise be entitled under this article is
24	appropriate.
25	(f) If the board determines under subsection (b) that a partial
26	forfeiture of the participant's retirement benefit is warranted, the
27	board shall calculate the participant's retirement benefit as if the
28	participant had retired or withdrawn from the judges' retirement
29	system on the date that the participant's misconduct first occurred.
30	(g) If the calculation of the participant's retirement benefit
31	under subsection (f) would result in an excessive retirement benefit
32	or an excessive forfeiture, given the nature and extent of the
33	participant's misconduct, the board may select a date that is
34	reasonably calculated to impose a forfeiture that reflects both the
35	nature and extent of:
36	(1) the participant's misconduct; and
37	(2) the participant's honorable service.
38	(h) If a prosecuting attorney undertakes the prosecution of or
39	obtains a criminal conviction against an individual whom the
40	prosecuting attorney knows or has reason to believe is a
41	participant in the judges' retirement system, the prosecuting



attorney shall:

1	(1) notify the board in writing of the prosecution or	
2	conviction; and	
3	(2) provide any information requested by the board to enable	
4	the board to make the determination required by this section.	
5	(i) If the supreme court removes or retires a state or county	
6	judge from office whom the supreme court knows or has reason to	
7	believe is a participant in the judges' retirement system, the	
8	supreme court shall:	
9	(1) notify the board in writing of the action of the supreme	
0	court; and	
1	(2) provide any information requested by the board to enable	
2	the board to make the determination required by this section.	
.3	(j) A meeting or hearing held to receive information about or to	
4	discuss, before a determination, whether:	
.5	(1) a participant's misconduct constitutes a breach of the	
6	condition that the participant's service be honorable; and	
7	(2) forfeiture of all or part of the participant's retirement	
8	benefit is appropriate;	
9	under this section may be held as an executive session under	
20	IC 5-14-1.5-6.1(b)(1).	
21	(k) Records containing information about whether:	<b>14</b>
22	(1) a participant's misconduct constitutes a breach of the	
23	condition that the participant's service be honorable; and	
24	(2) forfeiture of all or part of the participant's retirement	_
25	benefit is appropriate;	
26	under this section are exempt from disclosure under	
27	IC 5-14-3-4(b)(21). The board's final determination under this	
28	section is available for inspection and copying under IC 5-14-3.	V
29	SECTION 6. IC 33-39-7-26 IS ADDED TO THE INDIANA CODE	
30	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY	
31	1, 2005]: Sec. 26. (a) Notwithstanding any other provision of	
32	Indiana law, a participant in the fund is required to render	
3	honorable service as a condition for receiving a retirement benefit	
34	under this chapter.	
55	(b) If a participant commits misconduct while serving as an	
66	active member of the fund, the board shall conduct a hearing to determine whether:	
57		
8 19	(1) the misconduct constitutes a breach of the condition that	
	the participant's service be honorable; and (2) forfeiture of all or part of the participant's retirement	
ŀ0 ⊦1	benefit is appropriate.	
12	• • •	
-4	(c) The board shall consider and balance the following factors	



1	against the goals of the public pension laws in making a	
2	determination under subsection (b):	
3	(1) The participant's length of service.	
4	(2) The reason for the participant's retirement.	
5	(3) The extent to which the participant's benefit has vested.	
6	(4) The participant's duties.	
7	(5) The participant's history of public service, including the	
8	public service covered by the fund and other public	
9	employment or service completed by the participant.	
10	(6) The nature of the misconduct, including the following:	- 1
11	(A) The seriousness of the misconduct.	
12	(B) Whether the misconduct was a single offense or	
13	multiple offenses.	
14	(C) Whether the misconduct was an isolated, one (1) time	
15	occurrence or a continuing event.	
16	(7) The relationship between the misconduct and the	4
17	participant's public service.	
18	(8) The degree of the participant's moral turpitude, guilt, or	
19	culpability, including the participant's motives for and	
20	personal gain from the misconduct.	
21	(9) The availability and adequacy of other punishment or	I
22	sanctions for the misconduct, including criminal prosecution.	
23	(10) Other personal circumstances of the participant that bear	
24	on the justness of forfeiture.	
25	(d) The board shall issue a determination not later than thirty	
26	(30) days after the hearing under subsection (b) and provide a copy	
27	to the participant.	
28	(e) If the board determines under subsection (b) that the	
29	forfeiture of all or part of the participant's retirement benefit is	
30	appropriate, the board shall also determine whether forfeiture of	
31	all or part of the benefits to which a surviving spouse or child of	
32	the participant would otherwise be entitled under this chapter is	
33	appropriate.	
34	(f) If the board determines under subsection (b) that a partial	
35	forfeiture of the participant's retirement benefit is warranted, the	
36	board shall calculate the participant's retirement benefit as if the	
37	participant had retired or withdrawn from the fund on the date	
38	that the participant's misconduct first occurred.	
39	(g) If the calculation of the participant's retirement benefit	
40	under subsection (f) would result in an excessive retirement benefit	
41	or an excessive forfeiture, given the nature and extent of the	
42	participant's misconduct, the board may select a date that is	



1	reasonably calculated to impose a forfeiture that reflects both the
2	nature and extent of:
3	(1) the participant's misconduct; and
4	(2) the participant's honorable service.
5	(h) If a prosecuting attorney undertakes the prosecution of or
6	obtains a criminal conviction against an individual whom the
7	prosecuting attorney knows or has reason to believe is a
8	participant in the fund, the prosecuting attorney shall:
9	(1) notify the board in writing of the prosecution or
0	conviction; and
1	(2) provide any information requested by the board to enable
2	the board to make the determination required by this section.
.3	(i) If the supreme court removes a prosecuting attorney from
4	office or the state or a political subdivision of the state terminates
.5	a public employee whom the supreme court, state, or political
6	subdivision of the state knows or has reason to believe is a
7	participant in the fund, the supreme court, state, or political
8	subdivision shall:
9	(1) notify the board in writing of the action of the supreme
20	court, state, or political subdivision; and
21	(2) provide any information requested by the board to enable
22	the board to make the determination required by this section.
23	(j) A meeting or hearing held to receive information about or to
24	discuss, before a determination, whether:
25	(1) a participant's misconduct constitutes a breach of the
26	condition that the participant's service be honorable; and
27	(2) forfeiture of all or part of the participant's retirement
28	benefit is appropriate;
29	under this section may be held as an executive session under
30	IC 5-14-1.5-6.1(b)(1).
31	(k) Records containing information about whether:
32	(1) a participant's misconduct constitutes a breach of the
33	condition that the participant's service be honorable; and
4	(2) forfeiture of all or part of the participant's retirement
35	benefit is appropriate;
56	under this section are exempt from disclosure under
57	IC 5-14-3-4(b)(21). The board's final determination under this
8	section is available for inspection and copying under IC 5-14-3.
19	SECTION 7. IC 36-8-6-22 IS ADDED TO THE INDIANA CODE
10	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1	1, 2005]: Sec. 22. (a) Notwithstanding any other provision of
12	Indiana law, a fund member in the 1925 fund is required to render



1	honorable service as a condition for receiving a pension under this	
2	chapter.	
3	(b) If a fund member commits misconduct while an active	
4	member of the 1925 fund, the local board shall conduct a hearing	
5	under IC 36-8-8-12.7 to determine whether:	
6	(1) the misconduct constitutes a breach of the condition that	
7	the fund member's service be honorable; and	
8	(2) forfeiture of all or part of the fund member's pension is	
9	appropriate.	
10	(c) The local board shall consider and balance the following	1
11	factors against the goals of the public pension laws in making a	
12	determination under subsection (b):	`
13	(1) The fund member's length of service.	
14	(2) The reason for the fund member's retirement.	
15	(3) The extent to which the fund member's benefit has vested.	
16	(4) The fund member's duties.	4
17	(5) The fund member's history of public service, including the	
18	public service covered by the 1925 fund and other public	
19	employment or service completed by the fund member.	
20	(6) The nature of the misconduct, including the following:	
21	(A) The seriousness of the misconduct.	_
22	(B) Whether the misconduct was a single offense or	
23	multiple offenses.	
24	(C) Whether the misconduct was an isolated, one (1) time	
25	occurrence or a continuing event.	
26	(7) The relationship between the misconduct and the fund	
27	member's public service.	1
28	(8) The degree of the fund member's moral turpitude, guilt, or	\
29	culpability, including the fund member's motives for and	
30	personal gain from the misconduct.	
31	(9) The availability and adequacy of other punishment or	
32	sanctions for the misconduct, including criminal prosecution.	
33	(10) Other personal circumstances of the fund member that	
34	bear on the justness of forfeiture.	
35	(d) The local board shall issue its determination not later than	
36	thirty (30) days after the hearing under subsection (b) and shall	
37	provide a copy to the fund member.	
38	(e) If the local board determines under subsection (b) that the	
39	forfeiture of all or part of the fund member's pension is	
40	appropriate, the local board shall also determine whether	
41	forfeiture of all or part of the benefits to which a surviving spouse,	
42	child, or dependent parent of a fund member would otherwise be	



1	entitled under this chapter is appropriate.	
2	(f) If the local board determines under subsection (b) that a	
3	partial forfeiture of the fund member's pension is warranted, the	
4	local board shall calculate the fund member's pension as if the fund	
5	member had retired or withdrawn from the 1925 fund on the date	
6	that the fund member's misconduct first occurred.	
7	(g) If the calculation of the fund member's pension under	
8	subsection (f) would result in an excessive pension or an excessive	
9	forfeiture, given the nature and extent of the fund member's	
0	misconduct, the local board may select a date that is reasonably	
1	calculated to impose a forfeiture that reflects both the nature and	
2	extent of:	
.3	(1) the fund member's misconduct; and	
4	(2) the fund member's honorable service.	
.5	(h) If a prosecuting attorney undertakes the prosecution of or	
6	obtains a criminal conviction against an individual whom the	
7	prosecuting attorney knows or has reason to believe is a fund	
8	member of the 1925 fund, the prosecuting attorney shall:	
9	(1) notify the local board in writing of the prosecution or	
20	conviction; and	
21	(2) provide any information requested by the local board to	
22	enable the local board to make the determination required by	
23	this section.	
24	(i) If a political subdivision of the state removes a public officer	
25	from office or terminates a public employee whom the political	
26	subdivision knows or has reason to believe is a fund member of the	
27	1925 fund, the political subdivision shall:	
28	(1) notify the local board in writing of the action of the	
29	political subdivision; and	
0	(2) provide any information requested by the local board to	
31	enable the local board to make the determination required by	
32	this section.	
33	(j) A meeting or hearing held to receive information about or to	
4	discuss, before a determination, whether:	
55	(1) a fund member's misconduct constitutes a breach of the	
66	condition that the fund member's service be honorable; and	
57	(2) forfeiture of all or part of the fund member's pension is	
8	appropriate;	
19	under this section may be held as an executive session under	
10	IC 5-14-1.5-6.1(b)(1).	
1	(k) Records containing information about whether:	
12	(1) a fund member's misconduct constitutes a breach of the	



(2) forfeiture of all or part of the fund member's pension is appropriate; under this section are exempt from disclosure under IC 5-14-3-4(b)(21). The local board's final determination under this section is available for inspection and copying under IC 5-14-3.  SECTION 8. IC 36-8-7-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) Notwithstanding any other provision of Indiana law, a fund member of the 1937 fund is required to render honorable service as a condition for receiving a pension under this chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's duties.  (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.  (B) Whether the misconduct was a single offense or
under this section are exempt from disclosure under IC 5-14-3-4(b)(21). The local board's final determination under this section is available for inspection and copying under IC 5-14-3.  SECTION 8. IC 36-8-7-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) Notwithstanding any other provision of Indiana law, a fund member of the 1937 fund is required to render honorable service as a condition for receiving a pension under this chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's duties.  (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
IC 5-14-3-4(b)(21). The local board's final determination under this section is available for inspection and copying under IC 5-14-3.  SECTION 8. IC 36-8-7-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) Notwithstanding any other provision of Indiana law, a fund member of the 1937 fund is required to render honorable service as a condition for receiving a pension under this chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's duties.  (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
section is available for inspection and copying under IC 5-14-3.  SECTION 8. IC 36-8-7-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) Notwithstanding any other provision of Indiana law, a fund member of the 1937 fund is required to render honorable service as a condition for receiving a pension under this chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service. (2) The reason for the fund member's retirement. (3) The extent to which the fund member's benefit has vested. (4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
SECTION 8. IC 36-8-7-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) Notwithstanding any other provision of Indiana law, a fund member of the 1937 fund is required to render honorable service as a condition for receiving a pension under this chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
ASANEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) Notwithstanding any other provision of Indiana law, a fund member of the 1937 fund is required to render honorable service as a condition for receiving a pension under this chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
1, 2005]: Sec. 28. (a) Notwithstanding any other provision of Indiana law, a fund member of the 1937 fund is required to render honorable service as a condition for receiving a pension under this chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's benefit has vested.  (4) The fund member's duties.  (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
Indiana law, a fund member of the 1937 fund is required to render honorable service as a condition for receiving a pension under this chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
honorable service as a condition for receiving a pension under this chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's duties.  (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
chapter.  (b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
(b) If a fund member commits misconduct while an active member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
member of the 1937 fund, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and  (2) forfeiture of all or part of the fund member's pension is appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's duties.  (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
under IC 36-8-8-12.7 to determine whether:  (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and (2) forfeiture of all or part of the fund member's pension is appropriate. (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b): (1) The fund member's length of service. (2) The reason for the fund member's retirement. (3) The extent to which the fund member's benefit has vested. (4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
(1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and (2) forfeiture of all or part of the fund member's pension is appropriate. (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b): (1) The fund member's length of service. (2) The reason for the fund member's retirement. (3) The extent to which the fund member's benefit has vested. (4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
the fund member's service be honorable; and (2) forfeiture of all or part of the fund member's pension is appropriate. (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b): (1) The fund member's length of service. (2) The reason for the fund member's retirement. (3) The extent to which the fund member's benefit has vested. (4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
(2) forfeiture of all or part of the fund member's pension is appropriate. (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b): (1) The fund member's length of service. (2) The reason for the fund member's retirement. (3) The extent to which the fund member's benefit has vested. (4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
appropriate.  (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's duties.  (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
(c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's duties.  (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
factors against the goals of the public pension laws in making a determination under subsection (b):  (1) The fund member's length of service. (2) The reason for the fund member's retirement. (3) The extent to which the fund member's benefit has vested. (4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
determination under subsection (b):  (1) The fund member's length of service.  (2) The reason for the fund member's retirement.  (3) The extent to which the fund member's benefit has vested.  (4) The fund member's duties.  (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
(1) The fund member's length of service. (2) The reason for the fund member's retirement. (3) The extent to which the fund member's benefit has vested. (4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
(2) The reason for the fund member's retirement. (3) The extent to which the fund member's benefit has vested. (4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
(3) The extent to which the fund member's benefit has vested. (4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
(4) The fund member's duties. (5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member. (6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
(5) The fund member's history of public service, including the public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
public service covered by the 1937 fund and other public employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
employment or service completed by the fund member.  (6) The nature of the misconduct, including the following:  (A) The seriousness of the misconduct.
(6) The nature of the misconduct, including the following: (A) The seriousness of the misconduct.
(A) The seriousness of the misconduct.
(B) Whether the misconduct was a single offense or
14. 1 . 66
multiple offenses.
(C) Whether the misconduct was an isolated, one (1) time
occurrence or a continuing event.
(7) The relationship between the misconduct and the fund
member's public service. (8) The degree of the fund member's moral turpitude, guilt, or
1 ,0 ,
personal gain from the misconduct.  (9) The availability and adequacy of other punishment or
sanctions for the misconduct, including criminal prosecution.



1	(10) Other personal circumstances of the fund member that	
2	bear on the justness of forfeiture.	
3	(d) The local board shall issue its determination not later than	
4	thirty (30) days after the hearing under subsection (b) and shall	
5	provide a copy to the fund member.	
6	(e) If the local board determines under subsection (b) that the	
7	forfeiture of all or a part of the fund member's pension is	
8	appropriate, the local board shall also determine whether	
9	forfeiture of all or a part of the benefits to which a surviving	
10	spouse, child, or dependent parent of the fund member would	
11	otherwise be entitled under this chapter is appropriate.	
12	(f) If the local board determines under subsection (b) that a	
13	partial forfeiture of the fund member's pension is warranted, the	
14	local board shall calculate the fund member's pension as if the fund	
15	member had retired or withdrawn from the 1937 fund on the date	
16	that the fund member's misconduct first occurred.	
17	(g) If the calculation of the fund member's pension under	
18	subsection (f) would result in an excessive pension or an excessive	
19	forfeiture, given the nature and extent of the fund member's	
20	misconduct, the local board may select a date that is reasonably	
21	calculated to impose a forfeiture that reflects both the nature and	
22	extent of:	
23	(1) the fund member's misconduct; and	
24	(2) the fund member's honorable service.	
25	(h) If a prosecuting attorney undertakes the prosecution of or	
26	obtains a criminal conviction against an individual whom the	
27	prosecuting attorney knows or has reason to believe is a fund	
28	member of the 1937 fund, the prosecuting attorney shall:	V
29	(1) notify the local board in writing of the prosecution or	
30	conviction; and	
31	(2) provide any information requested by the local board to	
32	enable the local board to make the determination required by	
33	this section.	
34	(i) If a political subdivision of the state removes a public officer	
35	from office or terminates a public employee whom the political	
36	subdivision knows or has reason to believe is a fund member of the	
37	1937 fund, the political subdivision shall:	
38	(1) notify the local board in writing of the action of the	
39	political subdivision; and	
40	(2) provide any information requested by the local board to	
41	enable the local board to make the determination required by	
42	this section.	



1	(j) A meeting or hearing held to receive information about or to	
2	discuss, before a determination, whether:	
3	(1) a fund member's misconduct constitutes a breach of the	
4	condition that the fund member's service be honorable; and	
5	(2) forfeiture of all or part of the fund member's pension is	
6	appropriate;	
7	under this section may be held as an executive session under	
8	IC 5-14-1.5-6.1(b)(1).	
9	(k) Records containing information about whether:	
10	(1) a fund member's misconduct constitutes a breach of the	1
11	condition that the fund member's service be honorable; and	
12	(2) forfeiture of all or part of the fund member's pension is	
13	appropriate;	
14	under this section are exempt from disclosure under	
15	IC 5-14-3-4(b)(21). The local board's final determination under this	
16	section is available for inspection and copying under IC 5-14-3.	4
17	SECTION 9. IC 36-8-7.5-24 IS ADDED TO THE INDIANA CODE	
18	AS A <b>NEW</b> SECTION TO READ AS FOLLOWS [EFFECTIVE JULY	
19	1, 2005]: Sec. 24. (a) Notwithstanding any other provision of	
20	Indiana law, a fund member of the 1953 fund is required to render	
21	honorable service as a condition for receiving a pension under this	
22	chapter.	
23	(b) If a fund member commits misconduct while an active	
24	member of the 1953 fund, the local board shall conduct a hearing	
25	under IC 36-8-8-12.7 to determine whether:	
26	(1) the misconduct constitutes a breach of the condition that	
27	the fund member's service be honorable; and	
28	(2) forfeiture of all or a part of the fund member's pension is	
29	appropriate.	
30	(c) The local board shall consider and balance the following	
31	factors against the goals of the public pension laws in making a	
32	determination under subsection (b):	
33	(1) The fund member's length of service.	
34	(2) The reason for the fund member's retirement.	
35	(3) The extent to which the fund member's benefit has vested.	
36	(4) The fund member's duties.	
37	(5) The fund member's history of public service, including the	
38	public service covered by the 1953 fund and other public	
39	employment or service completed by the fund member.	
40	(6) The nature of the misconduct, including the following:	
41	(A) The seriousness of the misconduct.	
12	(B) Whether the misconduct was a single offense or	



	23	
1	multiple offenses.	
2	(C) Whether the misconduct was an isolated, one (1) time	
3	occurrence or a continuing event.	
4	(7) The relationship between the misconduct and the fund	
5	member's public service.	
6	(8) The degree of the fund member's moral turpitude, guilt, or	
7	culpability, including the fund member's motives for and	
8	personal gain from the misconduct.	
9	(9) The availability and adequacy of other punishment or	
0	sanctions for the misconduct, including criminal prosecution.	
1	(10) Other personal circumstances of the fund member that	
2	bear on the justness of forfeiture.	
3	(d) The local board shall issue its determination not later than	
4	thirty (30) days after the hearing under subsection (b) and shall	
.5	provide a copy to the fund member.	
6	(e) If the local board determines under subsection (b) that the	4
7	forfeiture of all or part of the fund member's pension is	
8	appropriate, the local board shall also determine whether	
9	forfeiture of all or part of the benefits to which a surviving spouse,	
20	child, or dependent parent of the fund member would otherwise be	
21	entitled under this chapter is appropriate.	
22	(f) If the local board determines under subsection (b) that a	
23	partial forfeiture of the fund member's pension is warranted, the	
24	local board shall calculate the fund member's pension as if the fund	
25	member had retired or withdrawn from the 1953 fund on the date	
26	that the fund member's misconduct first occurred.	
27	(g) If the calculation of the fund member's pension under	•
28	subsection (f) would result in an excessive pension or an excessive	
29	forfeiture, given the nature and extent of the fund member's	1
0	misconduct, the local board may select a date that is reasonably	
31	calculated to impose a forfeiture that reflects both the nature and	
32	extent of:	
3	(1) the fund member's misconduct; and	
4	(2) the fund member's honorable service.	
55	(h) If a prosecuting attorney undertakes the prosecution of or	
66	obtains a criminal conviction against an individual whom the	
57	prosecuting attorney knows or has reason to believe is a fund	
8	member of the 1953 fund, the prosecuting attorney shall:	
9	(1) notify the local board in writing of the prosecution or	
10	conviction; and	
1	(2) provide any information requested by the local board to	
12	enable the local board to make the determination required by	



1	this section.
2	(i) If a consolidated city removes a public officer from office or
3	terminates a public employee whom the consolidated city knows or
4	has reason to believe is a fund member of the 1953 fund, the
5	consolidated city shall:
6	(1) notify the local board in writing of the action of the
7	consolidated city; and
8	(2) provide any information requested by the local board to
9	enable the local board to make the determination required by
10	this section.
11	(j) A meeting or hearing held to receive information about or to
12	discuss, before a determination, whether:
13	(1) a fund member's misconduct constitutes a breach of the
14	condition that the fund member's service be honorable; and
15	(2) forfeiture of all or part of the fund member's pension is
16	appropriate;
17	under this section may be held as an executive session under
18	IC 5-14-1.5-6.1(b)(1).
19	(k) Records containing information about whether:
20	(1) a fund member's misconduct constitutes a breach of the
21	condition that the fund member's service be honorable; and
22	(2) forfeiture of all or part of the fund member's pension is
23	appropriate;
24	under this section are exempt from disclosure under
25	IC 5-14-3-4(b)(21). The local board's final determination under this
26	section is available for inspection and copying under IC 5-14-3.
27	SECTION 10. IC 36-8-8-12.7 IS AMENDED TO READ AS
28	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.7. (a) This section
29	applies to hearings conducted by local boards concerning
30	determinations of:
31	(1) impairment under this chapter; or of
32	(2) disability under IC 36-8-5-2(g), IC 36-8-6, IC 36-8-7, and
33	IC 36-8-7.5; <b>or</b>
34	(3) misconduct that warrants forfeiture of all or part of a fund
35	member's retirement benefit under:
36	(A) section 23 of this chapter; or
37	(B) IC 36-8-6-22, IC 36-8-7-28, or IC 36-8-7.5-24.
38	(b) At least five (5) days before the hearing, the local board shall
39	give notice to the fund member and the safety board of the time, date,
40	and place of the hearing.
41	(c) The local board must hold a hearing not more than ninety (90)
42	days after the fund member requests the hearing.



the safety board to:  (1) be represented by any individual;  (2) through witnesses and documents, present evidence;  (3) conduct cross-examination; and  (4) present arguments.  (e) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board.  (f) The local board shall, at the request of the fund member or the safety board, issue:  (1) subpoenas;  (2) discovery orders; and  (3) protective orders;  in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.  (g) The local board shall have the hearing recorded so that	
(1) be represented by any individual; (2) through witnesses and documents, present evidence; (3) conduct cross-examination; and (4) present arguments. (e) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board. (f) The local board shall, at the request of the fund member or the safety board, issue: (1) subpoenas; (2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	ıd
(2) through witnesses and documents, present evidence; (3) conduct cross-examination; and (4) present arguments. (e) At the hearing, the local board shall require all witnesses to leavamined under oath, which may be administered by a member of the local board. (f) The local board shall, at the request of the fund member or the safety board, issue: (1) subpoenas; (2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	
(3) conduct cross-examination; and (4) present arguments. (e) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board. (f) The local board shall, at the request of the fund member or the safety board, issue: (1) subpoenas; (2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	
(4) present arguments.  (e) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board.  (f) The local board shall, at the request of the fund member or the safety board, issue:  (1) subpoenas; (2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	
(e) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board.  (f) The local board shall, at the request of the fund member or the safety board, issue:  (1) subpoenas; (2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	
examined under oath, which may be administered by a member of the local board.  (f) The local board shall, at the request of the fund member or the safety board, issue:  (1) subpoenas; (2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	
local board.  (f) The local board shall, at the request of the fund member or the safety board, issue:  (1) subpoenas;  (2) discovery orders; and  (3) protective orders;  in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	oe .
(f) The local board shall, at the request of the fund member or the safety board, issue:  (1) subpoenas; (2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	ıe
safety board, issue:  (1) subpoenas; (2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	
(1) subpoenas; (2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	ıe
(2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	
(2) discovery orders; and (3) protective orders; in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.	
<ul> <li>(3) protective orders;</li> <li>in accordance with the Indiana Rules of Trial Procedure that gove discovery, depositions, and subpoenas in civil actions.</li> </ul>	
discovery, depositions, and subpoenas in civil actions.	
discovery, depositions, and subpoenas in civil actions.	rn
i / (g) the local obtain shall have the heating recolded so that	a
transcript may be made of the proceedings.	
(h) After the hearing, the local board shall make its determination	s,
including findings of fact, in writing and shall provide copies of i	
determinations to the fund member and the safety board not more that	
thirty (30) days after the hearing.	
(i) This subsection does not apply to a hearing to determine	ıe
whether a fund member's misconduct warrants forfeiture of all	
part of the fund member's retirement benefit. If the local board:	
(1) does not hold a hearing within the time required und	er
subsection (c); or	
(2) does not issue its determination within the time required und	er
subsection (h);	
the fund member shall be considered to be totally impaired f	or
purposes of section 13.5 of this chapter and, if the issue before the loc	al
board concerns the class of the member's impairment, the member sha	ı11
be considered to have a Class 1 impairment.	
(j) The local board may on its own motion issue:	
(1) subpoenas;	
36 (2) discovery orders; and	
(3) protective orders;	
in accordance with the Indiana Rules of Trial Procedure that gove	rn
discovery, depositions, and subpoenas in civil actions.	
(k) At the hearing, the local board may exclude evidence that	is
irrelevant, immaterial, unduly repetitious, or excludable on the basis	of
evidentiary privilege recognized by the courts.	



1	(1) At the hearing, the local board may request the testimony of
2	witnesses and the production of documents.
3	(m) If a subpoena or order is issued under this section, the party
4	seeking the subpoena or order shall serve it in accordance with the
5	Indiana Rules of Trial Procedure. However, if the subpoena or order is
6	on the local board's own motion, the sheriff of the county in which the
7	subpoena or order is to be served shall serve it. A subpoena or order
8	under this section may be enforced in the circuit or superior court of
9	the county in which the subpoena or order is served.
10	(n) With respect to a hearing conducted for purposes of
11	determining:
12	(1) disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5; or
13	(2) misconduct that warrants forfeiture of all or part of a fund
14	member's retirement benefit under IC 36-8-6-22,
15	IC 36-8-7-28, or IC 36-8-7.5-24;
16	the determination of the local board after a hearing is final and may be
17	appealed to the court.
18	(o) With respect to a hearing conducted for purposes of determining
19	impairment or class of impairment or making a recommendation to
20	the PERF board concerning misconduct that warrants forfeiture
21	of all or part of a fund member's retirement benefit under this
22	chapter, the fund member may appeal the local board's determinations
23	or recommendations. An appeal under this subsection:
24	(1) must be made in writing;
25	(2) for an impairment, must state the class of impairment and
26	the degree of impairment that is claimed by the fund member;
27	(3) for an impairment, must include a written determination by
28	the chief of the police or fire department stating that there is no
29	suitable and available work; and
30	(4) for a forfeiture, must state the basis for the appeal; and
31	(4) (5) must be filed with the local board and the PERF board's
32	director no later than thirty (30) days after the date on which the
33	fund member received a copy of the local board's determinations
34	or recommendations.
35	(p) To the extent required by the Americans with Disabilities Act,
36	the transcripts, records, reports, and other materials generated as a
37	result of a hearing, review, or appeal conducted to determine an
38	impairment under this chapter or a disability under IC 36-8-6,
39	IC 36-8-7, or IC 36-8-7.5 must be:
40	(1) retained in the separate medical file created for the member;
41	and
42	(2) treated as a confidential medical record.



27
(q) If a local board determines that a fund member described in section 13.3(a) of this chapter has a covered impairment, the local board shall also make a recommendation to the 1977 fund advisory committee concerning whether the covered impairment is an impairment described in section 13.3(c) of this chapter or whether it is an impairment described in section 13.3(d) of this chapter. The local board shall forward its recommendation to the 1977 fund advisory
committee.  (r) The 1977 fund advisory committee shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The 1977 fund advisory committee shall notify the local board, the safety board, and the fund member of its initial determination.

(s) The fund member, the safety board, or the local board may object in writing to the 1977 fund advisory committee's initial determination under subsection (r) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the 1977 fund advisory committee's initial determination becomes final. If a timely written objection is filed, the 1977 fund advisory committee shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

SECTION 11. IC 36-8-8-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) Notwithstanding any other provision of Indiana law, a fund member of the 1977 fund is required to render honorable service as a condition for receiving a retirement benefit under this chapter.

- (b) If a fund member commits misconduct while an active member of the 1977 fund, the local board shall conduct a hearing under 12.7 of this chapter to recommend to the PERF board whether:
  - (1) the misconduct constitutes a breach of the condition that the fund member's service be honorable; and
  - (2) forfeiture of all or part of the fund member's retirement benefit is appropriate.
- (c) The local board shall consider and balance the following factors against the goals of the public pension laws in making a recommendation under subsection (b):
  - (1) The fund member's length of service.
  - (2) The reason for the fund member's retirement.











1	(3) The extent to which the fund member's benefit has vested.	
2	(4) The fund member's duties.	
3	(5) The fund member's history of public service, including the	
4	public service covered by the 1977 fund and other public	
5	employment or service completed by the fund member.	
6	(6) The nature of the misconduct, including the following:	
7	(A) The seriousness of the misconduct.	
8	(B) Whether the misconduct constituted a single offense or	
9	multiple offenses.	
10	(C) Whether the misconduct was an isolated, one (1) time	
11	occurrence or a continuing event.	
12	(7) The relationship between the misconduct and the fund	
13	member's public service.	
14	(8) The degree of the fund member's moral turpitude, guilt, or	
15	culpability, including the fund member's motives for and	
16	personal gain from the misconduct.	4
17	(9) The availability and adequacy of other punishment or	
18	sanctions for the misconduct, including criminal prosecution.	
19	(10) Other personal circumstances of the fund member that	
20	bear on the justness of forfeiture.	
21	(d) The local board shall submit its recommendation to the	_
22	PERF board for review and provide a copy to the fund member not	
23	later than thirty (30) days after the hearing under subsection (b).	
24	The PERF board shall issue a determination not later than sixty	
25	(60) days after receipt of the local board's recommendation and	
26	provide a copy to the fund member.	
27	(e) If the local board recommends that the forfeiture of all or	
28	part of the fund member's retirement benefit is appropriate, the	
29	local board shall also make a recommendation to the PERF board	
30	as to whether forfeiture of all or a part of the benefits to which a	
31	surviving spouse or a dependent child or parent of the fund	
32	member would otherwise be entitled under this chapter is	
33	appropriate. If the PERF board determines that the forfeiture of	
34	all or part of the fund member's retirement benefit is appropriate,	
35	the PERF board shall also determine whether forfeiture of all or	
36	part of the benefits to which the surviving spouse or dependent	
37	child or parent of the fund member would otherwise be entitled	
38	under this chapter is appropriate.	
39	(f) If:	
40	(1) the local board recommends under subsection (b); and	
41	(2) the PERF board determines under subsection (d);	
42	that a partial forfeiture of the fund member's retirement benefit is	



1	warranted, the PERF board shall calculate the fund member's
2	retirement benefit as if the fund member had retired or withdrawn
3	from the 1977 fund on the date that the fund member's misconduct
4	first occurred.
5	(g) If the calculation of the fund member's retirement benefit
6	under subsection (f) would result in an excessive retirement benefit
7	or an excessive forfeiture, given the nature and extent of the fund
8	member's misconduct, the PERF board may select a date that is
9	reasonably calculated to impose a forfeiture that reflects both the
10	nature and extent of:
11	(1) the fund member's misconduct; and
12	(2) the fund member's honorable service.
13	(h) If a prosecuting attorney undertakes the prosecution of or
14	obtains a criminal conviction against an individual whom the
15	prosecuting attorney knows, or has reason to believe, is a fund
16	member of the 1977 fund, the prosecuting attorney shall:
17	(1) notify the local board and the PERF board in writing of
18	the prosecution or conviction; and
19	(2) provide any information requested by the local board or
20	the PERF board to enable the PERF board to make the
21	determination required by this section.
22	(i) If a political subdivision of the state removes a public officer
23	from office or terminates a public employee whom the political
24	subdivision knows or has reason to believe is a fund member of the
25	1977 fund, the political subdivision shall:
26	(1) notify the local board and the PERF board in writing of
27	the action of the political subdivision; and
28	(2) provide any information requested by the local board or
29	the PERF board to enable the PERF board to make the
30	determination required by this section.
31	(j) A meeting or hearing held to receive information about or to
32	discuss, before a determination, whether:
33	(1) a fund member's misconduct constitutes a breach of the
34	condition that the fund member's service be honorable; and
35	(2) forfeiture of all or part of the fund member's retirement
36	benefit is appropriate;
37	under this section may be held as an executive session under
38	IC 5-14-1.5-6.1(b)(1).
39	(k) Records containing information about whether:
40	(1) a fund member's misconduct constitutes a breach of the
41 42	condition that the fund member's service be honorable; and
12	(2) forfeiture of all or part of the fund member's retirement



1	benefit is appropriate;	
2	under this section are exempt from disclosure under	
3	IC 5-14-3-4(b)(21). The PERF board's final determination under	
4	this section is available for inspection and copying under IC 5-14-3.	
5	SECTION 12. IC 36-8-10-12.3 IS ADDED TO THE INDIANA	
6	CODE AS A NEW SECTION TO READ AS FOLLOWS	
7	[EFFECTIVE JULY 1, 2005]: Sec. 12.3. (a) Notwithstanding any	
8	other provision of Indiana law, an employee beneficiary of the	
9	trust fund is required to render honorable service as a condition	_
10	for receiving a pension under this chapter.	4
11	(b) If an employee beneficiary commits misconduct while	
12	serving as a sheriff of a county or a county police officer, the	
13	department shall conduct a hearing to determine whether:	
14	(1) the misconduct constitutes a breach of the condition that	
15	the employee beneficiary's service be honorable; and	
16	(2) forfeiture of all or part of the employee beneficiary's	4
17	pension is appropriate.	
18	(c) The department shall consider and balance the following	
19	factors against the goals of the public pension laws in making a	
20	determination under subsection (b):	
21	(1) The employee beneficiary's length of service.	
22	(2) The reason for the employee beneficiary's retirement.	
23	(3) The extent to which the employee beneficiary's benefit has	
24	vested.	
25	(4) The employee beneficiary's duties.	
26	(5) The employee beneficiary's history of public service,	
27	including the public service covered by the trust fund and	
28	other public employment or service completed by the	
29	employee beneficiary.	
30	(6) The nature of the misconduct, including the following:	
31	(A) The seriousness of the misconduct.	
32	(B) Whether the misconduct constituted a single offense or	
33	multiple offenses.	
34	(C) Whether the misconduct was an isolated, one (1) time	
35	occurrence or a continuing event.	
36	(7) The relationship between the misconduct and the employee	
37	beneficiary's public service.	
38	(8) The degree of the employee beneficiary's moral turpitude,	
39	guilt, or culpability, including the employee beneficiary's	
40	motives for and personal gain from the misconduct.	
41	(9) The availability and adequacy of other punishment or	
42	sanctions for the misconduct, including criminal prosecution.	



1	(10) Other personal circumstances of the employee	
2	beneficiary that bear on the justness of forfeiture.	
3	(d) The department shall issue a determination not later than	
4	thirty (30) days after the hearing under subsection (b) and shall	
5	provide a copy to the employee beneficiary.	
6	(e) If the department determines under subsection (b) that the	
7	forfeiture of all or part of the employee beneficiary's pension is	
8	appropriate, the department shall also determine whether	
9	forfeiture of all or part of the benefits to which a surviving spouse	
10	or dependent child or parent of the employee beneficiary would	
11	otherwise be entitled under this chapter is appropriate.	
12	(f) If the department determines under subsection (b) that a	
13	partial forfeiture of the employee beneficiary's pension is	
14	warranted, the department shall direct the trustee to calculate the	
15	employee beneficiary's pension as if the employee beneficiary had	
16	retired or withdrawn from the trust fund on the date that the	
17	employee beneficiary's misconduct first occurred.	
18	(g) If the calculation of the employee beneficiary's pension	
19	under subsection (f) would result in an excessive pension or an	
20	excessive forfeiture, given the nature and extent of the employee	
21	beneficiary's misconduct, the department may select a date that is	
22	reasonably calculated to impose a forfeiture that reflects both the	
23	nature and extent of:	
24	(1) the employee beneficiary's misconduct; and	
25	(2) the employee beneficiary's honorable service.	
26	(h) If a prosecuting attorney undertakes the prosecution of or	
27	obtains a criminal conviction against an individual whom the	
28	prosecuting attorney knows, or has reason to believe, is an	
29	employee beneficiary of the trust fund, the prosecuting attorney	
30	shall:	
31	(1) notify the department in writing of the prosecution or	
32	conviction; and	
33	(2) provide any information requested by the department to	
34	enable the department to make the determination required by	
35	this section.	
36	(i) A meeting or hearing held to receive information about or to	
37	discuss, before a determination, whether:	
38	(1) an employee beneficiary's misconduct constitutes a breach	
39	of the condition that the employee beneficiary's service be	
40	honorable; and	
41	(2) forfeiture of all or part of the employee beneficiary's	
42	pension is appropriate;	



1	under this section may be held as an executive session under	
2	IC 5-14-1.5-6.1(b)(1).	
3	(j) Records containing information about whether:	
4	(1) an employee beneficiary's misconduct constitutes a breach	
5	of the condition that the employee beneficiary's service be	
6	honorable; and	
7	(2) forfeiture of all or part of the employee beneficiary's	
8	pension is appropriate;	
9	under this section are exempt from disclosure under	
10	IC 5-14-3-4(b)(21). The department's final determination under	
11	this section is available for inspection and copying under IC 5-14-3.	
12	SECTION 13. [EFFECTIVE JULY 1, 2005] IC 5-10-5.5-22,	
13	IC 5-10.2-4-11, IC 10-12-2-10.5, IC 33-38-6-28, IC 33-39-7-26,	
14	IC 36-8-6-22, IC 36-8-7-28, IC 36-8-7.5-24, IC 36-8-8-23,	
15	IC 36-8-10-12.3, all as added by this act, and IC 5-14-3-4 and	
16	IC 36-8-8-12.7, both as amended by this act, apply to misconduct	
17	that occurs after June 30, 2005.	
		V

